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LOCAL GOVERNMENT**

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UTILITY SERVICES**

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## Part 45

### Local Water Quality Districts

**7-13-4501. Findings and purpose.** (1) Pollution and degradation of surface water and ground water pose both immediate and long-term threats to the health, safety, and welfare of citizens of this state.

(2) Because of the expense and difficulty of ground water rehabilitation and cleanup and the need to protect drinking water supplies, policies and programs to prevent ground water contamination must be implemented.

(3) The purpose of this part is to provide for the creation of local water quality districts to protect, preserve, and improve the quality of surface water and ground water.

**History:** En. Sec. 1, Ch. 357, L. 1991.

**7-13-4502. Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Board of directors" means the board of directors provided for in 7-13-4516 or a joint board of directors provided for in 7-13-4527.

(2) "Board of environmental review" means the board of environmental review as provided in 2-15-3502.

(3) "Commissioners" means the board of county commissioners or the governing body of a city-county consolidated government.

(4) "Family residential unit" means a single-family dwelling.

(5) "Fee-assessed units" means all real property with improvements, including taxable and tax-exempt property as shown on the property assessment records maintained by the county, and mobile homes and manufactured homes as defined in 15-24-201.

(6) "Local water quality district" means an area established with definite boundaries for the purpose of protecting, preserving, and improving the quality of surface water and ground water in the district as authorized by this part.

**History:** En. Sec. 2, Ch. 357, L. 1991; amd. Sec. 27, Ch. 418, L. 1995; amd. Sec. 29, Ch. 546, L. 1995; amd. Sec. 5, Ch. 200, L. 1997.

**7-13-4503 reserved.**

**7-13-4504. Authorization to initiate creation of a local water quality district.** (1) The commissioners may initiate the creation of a local water quality district for the purpose of protecting, preserving, and improving the quality of surface water and ground water, as provided by this part, by holding a public meeting, passing a resolution of intention, providing an opportunity for owners of fee-assessed units to protest, and conducting a public hearing to hear and decide upon protests, as provided in 7-13-4506, 7-13-4507, 7-13-4509, and 7-13-4510.

(2) A city or town may be included in the district if approved by the governing body of the city or town.

**History:** En. Sec. 3, Ch. 357, L. 1991.

**7-13-4505. Public meeting -- resolution of intention to create local water quality district.** (1) The commissioners shall hold at least one public meeting concerning the creation of a local water quality district prior to the passage of a resolution of intention to create the district.

- (2) The resolution of intention must designate:
- (a) the proposed name of the district;
  - (b) the necessity for the proposed district;
  - (c) a general description of the territory or lands included in the district, including identification of the district boundaries that must correspond to the area in which the need for the district exists pursuant to subsection (2)(b);
  - (d) a general description of the proposed water quality program;
  - (e) the initial estimated cost of the water quality program; and
  - (f) the initial proposed fees to be charged.

**History:** En. Sec. 4, Ch. 357, L. 1991.

**7-13-4506. Participation of cities and towns.** (1) Upon passage of a resolution of intention, the commissioners shall transmit a copy of the resolution to the governing body of any incorporated city or town within the proposed local water quality district for consideration by the governing body.

(2) If the governing body of the city or town by resolution concurs in the resolution of intention, a copy of the resolution of concurrence must be transmitted to the commissioners.

(3) If the governing body of the incorporated city or town does not concur in the resolution of intention, the commissioners may not include the city or town in the district but may continue to develop a district that excludes the city or town.

**History:** En. Sec. 5, Ch. 357, L. 1991.

**7-13-4507. Notice of resolutions of intention and concurrence.** (1) The commissioners shall give notice of the passage of the resolution of intention and resolution of concurrence, if applicable, and publish a notice that:

- (a) describes the local water quality program that would be implemented in the local water quality district;
- (b) specifies the initial proposed fees to be charged;
- (c) designates the time and place where the commissioners will hear and decide upon protests made against the operation of the proposed district; and
- (d) states that a description of the boundaries for the proposed district is included in the resolution on file in the county clerk's office.
- (2) The notice must be published as provided in 7-1-2121.
- (3) The commissioners shall mail to all owners of proposed fee-assessed units, as listed in the property tax record maintained by the department of revenue, a postcard that identifies the location where the resolution of intention, resolution of concurrence, and protest forms may be obtained.

**History:** En. Sec. 6, Ch. 357, L. 1991; amd. Sec. 22, Ch. 27, Sp. L. November 1993; amd. Sec. 43, Ch. 354, L. 2001.

**7-13-4508 reserved.**

**7-13-4509. Right to protest -- procedure.** (1) At any time within 30 days after the date of the first publication of the notice provided for in 7-13-4507(1), a person owning a

fee-assessed unit located within the proposed local water quality district may make written protest against the proposed district and the fees proposed to be charged.

(2) The protest must be in writing and must be delivered to the county clerk, who shall endorse on it the date the protest is received.

(3) Owners may file one protest per fee-assessed unit.

**History: En. Sec. 7, Ch. 357, L. 1991.**

**7-13-4510. Hearing on protest.** (1) At the next regular meeting of the commissioners after the expiration of the time period provided for in 7-13-4509, the commissioners shall hear and decide upon all protests.

(2) The commissioners may adjourn the hearing as necessary.

**History: En. Sec. 8, Ch. 357, L. 1991.**

**7-13-4511. Sufficient protest to require referendum.** If the owners of more than 20% of the fee-assessed units in the proposed district protest the creation of the proposed district and the fees proposed to be charged, the commissioners are barred from further proceedings on the matter unless the commissioners submit a referendum to create the district to the registered voters who reside within the proposed district and the registered voters approve the creation of the district and establish the fees by approving the referendum.

**History: En. Sec. 9, Ch. 357, L. 1991.**

**7-13-4512. Referendum.** (1) The commissioners may adopt a resolution causing a referendum to be submitted to the registered voters who reside within a proposed local water quality district to authorize the creation of the district and establish fees.

(2) The referendum must state:

(a) the type and maximum rate of the initial proposed fees that would be imposed, consistent with the requirements of 7-13-4523;

(b) the maximum dollar amount for a family residential unit;

(c) the type of activities proposed to be financed, including a general description of the local water quality program; and

(d) a general description of the areas included in the proposed district.

**History: En. Sec. 10, Ch. 357, L. 1991.**

**7-13-4513. Insufficient protest to bar proceedings -- resolution creating district -- power to implement local water quality program.** (1) The commissioners may create a local water quality district, establish fees, and appoint a board of directors if the commissioners find that insufficient protests have been made in accordance with 7-13-4511 or if the registered voters who reside in the proposed district have approved a referendum as provided in 7-13-4512.

(2) To create a local water quality district, the commissioners shall pass a resolution in accordance with the resolution of intention introduced and passed by the commissioners or in accordance with the terms of the referendum.

(3) The commissioners and board of directors may implement a local water quality program after the program is approved by the board of environmental review pursuant to 75-5-311.

**History:** En. Sec. 11, Ch. 357, L. 1991; amd. Sec. 28, Ch. 418, L. 1995.

**7-13-4514 and 7-13-4515 reserved.**

**7-13-4516. Board of directors.** (1) Except as provided in subsections (3)(b) and (5), the commissioners shall appoint a board of directors for the local water quality district.

(2) The board of directors consists of not less than five members, including one county commissioner or member of the governing body of a city-county consolidated government, one member from the governing body of each incorporated city or town that is included in the district, one member of the county or city-county board of health, and if the district includes a substantial amount of land that is within a conservation district or districts, one conservation district supervisor.

(3) The remaining members of the board of directors are selected from interested persons, as follows:

(a) from persons whose residences or businesses are distributed equally throughout the district if a county is the only unit of local government participating in the district; or

(b) through mutual agreement by all governing bodies if a county and one or more incorporated cities and towns are participating in the district.

(4) Terms of members of the board of directors are staggered and, after the initial terms, are for 3 years.

(5) In counties that have a full-time city-county health department, the city-county board of health, created as authorized by 50-2-106, may be designated as the board of directors for the local water quality district. If the city-county board of health is designated as the board of directors and if the local water quality district includes a substantial amount of land that is within a conservation district or districts, the board of directors must also include one member who is a conservation district supervisor.

**History:** En. Sec. 12, Ch. 357, L. 1991.

**7-13-4517. Powers and duties of board of directors.** The board of directors of a local water quality district, with the approval of the commissioners, may:

(1) develop a local water quality program, to be submitted to the board of environmental review, for the protection, preservation, and improvement of the quality of surface water and ground water in the district. In developing the program, the board of directors shall consult with the board or boards of supervisors of conservation districts, established as provided in 76-15-201, whose geographical area of jurisdiction is included within the boundaries of the local water quality district.

(2) implement a local water quality program;

(3) administer the budget of the local water quality district;

(4) employ personnel;

(5) purchase, rent, or lease equipment and material necessary to develop and implement an effective program;

(6) cooperate or contract with any corporation, association, individual, or group of individuals, including any agency of the federal, state, or local government, in order to develop and implement an effective program;

(7) receive gifts, grants, or donations for the purpose of advancing the program and acquire, by gift, deed, or purchase, land necessary to implement the local water quality program;

(8) administer local ordinances that are adopted by the commissioners and governing bodies of the participating cities and towns and that pertain to the protection, preservation, and improvement of the quality of surface water and ground water;

(9) apply for and receive from the federal government or the state government, on behalf of the local water quality district, money to aid the local water quality program;

(10) borrow money for assistance in planning or refinancing a local water quality district and repay loans with the money received from the established fees; and

(11) construct facilities that cost not more than \$5,000 and maintain facilities necessary to accomplish the purposes of the district, including but not limited to facilities for removal of water-borne contaminants; water quality improvement; sanitary sewage collection, disposal, and treatment; and storm water or surface water drainage collection, disposal, and treatment.

**History:** En. Sec. 13, Ch. 357, L. 1991; amd. Sec. 29, Ch. 418, L. 1995.

**7-13-4518. Powers and duties of commissioners.** In addition to the other powers and duties of the commissioners authorized by this part, the commissioners may:

(1) adopt local ordinances in accordance with the requirements of 75-5-311;

(2) establish fees;

(3) review and approve the annual budget of the local water quality district; and

(4) approve the construction of facilities that cost more than \$5,000 but not more than \$100,000 a year and that are necessary to accomplish the purposes of this part, including but not limited to facilities for removal of water-borne contaminants; water quality improvement; sanitary sewage collection, disposal, and treatment; and storm water or surface water drainage collection, disposal, and treatment.

**History:** En. Sec. 14, Ch. 357, L. 1991.

**7-13-4519. Role of county attorney -- contracts for legal services.** The board of directors may, by agreement with the commissioners, contract with the county attorney or an attorney licensed to practice law in the state of Montana to perform legal services for the local water quality district.

**History:** En. Sec. 17, Ch. 357, L. 1991.

**7-13-4520 reserved.**

**7-13-4521. Implementation of program.** The board of directors may implement a local water quality program in parts of a local water quality district before the program is implemented in the district as a whole. If a program is initially implemented in only a portion of a district, the fees may be levied only against that part of the district where the program is being implemented. As the program is expanded throughout the district, each additional part of the district that is covered by the program shall pay the fee.

**History:** En. Sec. 15, Ch. 357, L. 1991.

**7-13-4522. Changes in district boundaries.** The board of directors may by resolution make changes in the boundaries of a local water quality district that the board determines are reasonable and proper, following the same procedures of notice and hearing provided in 7-13-4507, 7-13-4509, and 7-13-4510, except that the notice provisions of 7-13-4507(3) apply only to the owners of proposed fee-assessed units in new areas that are proposed to be

included in the district. If 20% of the owners of fee-assessed units in the new areas protest the inclusion in the district and the fees proposed to be charged, the board of directors is barred from further proceedings on the matter unless the registered voters who reside in the areas proposed for inclusion agree to be included in the district and accept the proposed fees by approving a referendum in accordance with the provisions of 7-13-4512.

**History: En. Sec. 16, Ch. 357, L. 1991.**

**7-13-4523. Fees -- determination of rates -- increases -- exemption for agricultural water use.** (1) The commissioners shall determine fee rates according to a classification system that is based upon the volume of water withdrawn and the volume and type of waste produced at each fee-assessed unit in the local water quality district.

(2) Fees for commercial and industrial units must be based on a comparison with a typical family residential unit as to volume of water withdrawn and volume and type of waste produced. Commercial and industrial units may be assessed fees that are not greater than 50 times the fees assessed on a family residential unit.

(3) The commissioners may increase fees up to 10% a year by passing a resolution to establish the new fee rate. The commissioners may not approve a proposed fee increase of more than 10% a year unless notice of the proposed increase is given as provided in 7-13-4507(1) and (2) and opportunity for protest is provided as set forth in 7-13-4509 and 7-13-4510. If more than 20% of the owners of fee assessed units in the district protest, the fee increase may not be approved except through the referendum procedure provided for in 7-13-4512.

(4) Water withdrawals for irrigation and livestock use and related water discharges may not be assessed fees.

**History: En. Sec. 18, Ch. 357, L. 1991.**

**7-13-4524. Procedure to collect fees.** The month the local water quality district is created pursuant to 7-13-4513, the department of revenue or its agents shall ensure that the amount of the fees is placed on the county tax assessments for each fee-assessed unit. Unpaid fees are a lien on the fee-assessed unit and may be enforced as a lien for nonpayment of property taxes.

**History: En. Sec. 19, Ch. 357, L. 1991.**

**7-13-4525. Disposition and administration of proceeds.** (1) All fees and other money received by a local water quality district must be placed in a separate fund maintained by the county treasurer and must be used solely for the purpose for which the local water quality district was created.

(2) The commissioners shall draw warrants upon the fund on claims approved by the board of directors.

**History: En. Sec. 20, Ch. 357, L. 1991.**

**7-13-4526 reserved.**

**7-13-4527. Creation of joint local water quality districts.** (1) Joint local water quality districts are districts that encompass two or more counties or parts of counties.

(2) A joint local water quality district may be created if the commissioners of each affected county:

(a) create the district, following the procedures prescribed under 7-13-4504 through 7-13-4507 and 7-13-4509 through 7-13-4513; and

(b) appoint a joint board of directors that consists of at least five members and that is consistent with the requirement of 7-13-4528(2)(b), if applicable.

**History: En. Sec. 21, Ch. 357, L. 1991.**

**7-13-4528. Composition of board of directors of joint district -- terms.** (1) The board of directors for a joint district consists of one commissioner from each county involved, one member from each incorporated city or town included in the district, one member from each county or city-county board of health, and if the joint district includes a substantial amount of land that is within a conservation district or districts, one conservation district supervisor.

(2) The remaining members of the joint board of directors are selected from interested citizens, as follows:

(a) persons whose residences or businesses are distributed equally throughout the district if counties are the only units of government participating in the joint district; or

(b) through mutual agreement of all commissioners and governing bodies of cities and towns participating in the district.

(3) Terms of appointed members are staggered and, after the initial terms, are for 3 years.

**History: En. Sec. 22, Ch. 357, L. 1991.**

**7-13-4529. Administration of funds in joint districts.** Fees and other money collected by a joint local water quality district may be administered by one county treasurer upon mutual agreement by the commissioners of the counties participating in a joint local water quality district.



**History: En. Sec. 23, Ch. 357, L. 1991.**

**7-13-4530 through 7-13-4534 reserved.**

**7-13-4535. Referendum to abolish local water quality district or joint local water quality district -- termination procedures.** (1) A person owning a fee-assessed unit located within a local water quality district or a joint local water quality district may petition the commissioners of a local water quality district or the board of directors of a joint water quality district to submit a referendum to the registered voters residing in the district to terminate or abolish the district. The petition must be in writing and contain the signatures and addresses of 20% or more of the owners of fee-assessed units in the district. The petition requesting a referendum for termination or abolishment of a district must be delivered to the county clerk who shall endorse on it the date on which the petition was received and validate the signatures within 60 days of receipt of the petition. If the petition contains valid signatures of at least 20% of the owners of fee-assessed units located within the district, the county clerk shall notify the commissioners of a local water quality district or the board of directors of a joint water quality district.

(2) Upon receipt of a valid petition described in subsection (1), the commissioners of a local water quality district or the board of directors of a joint water quality district shall submit the referendum to the registered voters residing in the district in accordance with the provisions of 7-5-136.

**History: En. Sec. 1, Ch. 123, L. 1995.**

**7-13-4536. Allocation of funds upon termination of local water quality district or joint local water quality district.** (1) Except as provided in subsection (2), if a local water quality district or joint local water quality district is terminated, any funds held by the county treasurer pursuant to 7-13-4525 or 7-13-4529 must be deposited in the county general fund. In the case of a terminated joint local water quality district, any funds held by the county treasurer pursuant to 7-13-4529 must be allocated between the counties on the basis of the number of fee-assessed units located in each county.

(2) If the funds held by the county treasurer pursuant to 7-13-4525 or 7-13-4529 are derived from grants or gifts that restrict the use of those funds, the county treasurer shall return those funds to the grantor or donor.

**History: En. Sec. 2, Ch. 123, L. 1995.**